vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1405 OF 2006

Union of India ... Petitioner

V/s.

Govind S. Bhagat ... Respondent

Mr.Suresh Kumar for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **SEPTEMBER 3, 2007**

P.C.:

. The petitioner has challenged the award part I in Reference No.CGIT-14 of 1996. An enquiry was held against the respondent for certain acts of misconduct. A chargesheet was issued to him. However, the documents which were referred to in the chargesheet were not supplied to the workman. Vernekar who was the complainant was not offered for cross-examination according to the Tribunal. This finding is incorrect. The enquiry officer has recorded that the defence representative was unwilling to cross-examine Vernekar as irregularities had been committed by calling him for crossexamination. The Enquiry officer had recorded that since the prosecution witnesses Vaidya and Joy Kutti had remained absent repeatedly, their evidence could not be recorded. It appears that Joy Kutti’s evidence was recorded later after this ruling of the enquiry officer.

In such circumstances, the Labour Court has rightly held that the principles of natural justice had been violated by the Enquiry officer in conducting the enquiry.

2. Reliance is placed on the judgment of the Supreme Court in the case of *State of U.P. v/s. Sheo Shanker Lal Srivastava & Ors.,* **(2006) 3 SCC 276** to submit that reasonable opportunities have been given to the workman and if the delinquent chooses not to controvert or cross-examine the witnesses the evidence would be deemed to be admitted.

3. In the present case, it appears from the findings recorded by the Labour Court that the Petitioner did not make available the witnesses who were named in the annexure to the chargesheet for crossexamination, although their evidence was recorded. In such circumstances, the petition is rejected.